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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS-2013-0078]

Asian Longhorned Beetle; Quarantined Areas in New Jersey

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Asian longhorned beetle regulations by removing portions of Middlesex and Union Counties, NJ, from the list of quarantined areas based on our determination that those areas meet our criteria for removal. This action is necessary to relieve restrictions that are no longer necessary. With this change, there are no longer any areas in New Jersey that are quarantined because of Asian longhorned beetle.

DATES: This interim rule is effective [Insert date of publication in the Federal Register]. We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0078-0001>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No.

APHIS-2013-0078, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0078> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2352.

SUPPLEMENTARY INFORMATION:

Background

The Asian longhorned beetle (ALB, Anoplophora glabripennis), an insect native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. The ALB regulations in 7 CFR 301.51-1 through 301.51-9 (referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the artificial spread of ALB to noninfested areas of the United States.

The regulations in § 301.51-3(a) provide that the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State in which ALB has been found by an inspector, where the Administrator has reason to believe that ALB is present, or where the Administrator considers regulation necessary because of its inseparability for quarantine enforcement purposes from localities where ALB has been found.

Less than an entire State will be quarantined only if (1) the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated

articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of ALB.

In 2004, APHIS quarantined portions of Middlesex and Union Counties, NJ, after ALB was first detected in the area in order to prevent the artificial spread of ALB. After the completion of control and regulatory activities, and based on the results of at least 3 years of negative surveys of all regulated host plants within the quarantined areas, APHIS has determined that Middlesex and Union Counties, NJ, have met the criteria for removal of the Federal quarantine for ALB.

Therefore, in this interim rule, we are amending the list of quarantined areas in § 301.51-3(c) by removing the entry for Middlesex and Union Counties, NJ. This action relieves restrictions on the movement of regulated articles from those areas that are no longer warranted. With this change, there are no longer any areas in New Jersey that are quarantined because of ALB.

Immediate Action

Immediate action is warranted to relieve restrictions on certain areas that are no longer warranted. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the Federal Register.

We will consider comments we receive during the comment period for this interim rule (see DATES above). After the comment period closes, we will publish another document in the

Federal Register. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

We are amending the ALB regulations by removing portions of Middlesex and Union Counties, NJ, from the list of quarantined areas and removing restrictions on the interstate movement of regulated articles from those areas. We have determined that the ALB is no longer present in that area and that the quarantine and restrictions are no longer necessary.

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small entities, i.e., small businesses, organizations, and governmental jurisdictions. The entities most likely to be affected by this rule include landscaping, tree servicing, waste hauling, firewood sales, trucking, construction, excavation, and property management in the area being removed from quarantine.

In the portions of Middlesex and Union Counties, NJ, that we are deregulating in this interim rule, there are estimated to be several hundred entities that will be affected. These entities are mainly landscape companies; municipalities would also be affected. While the size of these entities is unknown, it is reasonable to assume that most are small entities based on Small Business Administration size standards.

Any affected entities located within the area removed from quarantine stand to benefit from the interim rule, since they are no longer subject to the restrictions in the regulations. However, our experience with the ALB program in Illinois, New York, and New Jersey has shown that the number and value of regulated articles that are, upon inspection, determined to be

infested, and therefore denied a certificate or a limited permit for movement, is small. Thus, any benefit for affected entities in the areas removed from quarantine is likely to be minimal, given that the costs associated with the restrictions that have been relieved were themselves minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301–DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 issued under Sec. 204, Title II, Public Law 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 issued under Sec. 203, Title II, Public Law 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

§ 301.51-3 [Amended]

2. In § 301.51-3, paragraph (c) is amended by removing the heading “New Jersey” and the entry for Middlesex and Union Counties.

Done in Washington, DC, this 24th day of March 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014-06947 Filed 03/27/2014 at 8:45 am; Publication Date: 03/28/2014]